

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

The defendant has filed an unopposed motion for a telephonic conference to discuss “a dispute over the completion of Plaintiff’s deposition, which was stopped by Plaintiff’s counsel . . . on the grounds that Plaintiff was unable to understand the questions and/or the deposition.” Filing No. [27](#). The defendant has filed, and the court has reviewed the plaintiff’s partial deposition.

At the outset of the deposition, the plaintiff acknowledged she was taking “strong medications,” but stated she was able to truthfully respond to questions. Filing No. [28](#) (Hill depo.), at 4:22-5:6. About an hour and one-half later, the plaintiff’s testimony contradicted her prior testimony, and when asked about the discrepancy, the plaintiff stated she could not remember testifying differently at an earlier time because “I take a lot of medication.” Filing No. [28](#) (Hill depo.), at 53: 17-21. However, on further inquiry, the plaintiff re-affirmed she was able to truthfully answer the questions posed by defendant’s counsel. Filing No. [28](#) (Hill depo.), at 54:8-55:25.

After a lunch recess, and an additional hour recess immediately following the lunch recess, plaintiff's counsel stopped the deposition, stating on the record:

At this point, I believe we need to stop the deposition. I don't know that my client -- or believe my client understands the questions, understands

the deposition; and I just feel we need to stop. I don't know if the reason is medical or whatever.

Filing No. [28](#) (Hill depo.), at 87:20-25.

The plaintiff will be afforded an opportunity to file a written response before the court considers the merits of this discovery dispute. After the written response is filed, the court will determine if a telephonic conference is warranted. Accordingly,

IT IS ORDERED that on or before September 22, 2009, the plaintiff shall file a response to the defendant's motion regarding the cessation and completion of plaintiff's deposition, (filing no. [27](#)).

DATED this 16th day of September, 2009.

BY THE COURT:

Richard G. Kopf
United States District Judge